

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOANN FEIKES,

Plaintiff,

vs.

CARDIOVASCULAR SURGERY ASSOCIATES,
et al.,

Defendant.

Case No. 2:04-cv-01724-LDG-GWF

ORDER

This matter is before the Court on Merrilu Kutcher and Bruce E. Moore's Motion for Substitution of Parties (#128), filed on May 20, 2015. Defendants filed a Limited Opposition (#129) on June 3, 2015. Merrilu Kutcher and Bruce E. Moore's Reply (#132) was filed on June 26, 2015.

Merrilu Kutcher and Bruce E. Moore, as co-executors of the Estate of Plaintiff JoAnn Feikes, bring this motion to substitute themselves for JoAnn Feikes as the Plaintiff in this action. Ms. Feikes passed away on March 17, 2015 (#128, Exhibit A). Pursuant to Fed. R. Civ. P. 25(a)(1), a proper party may continue to litigate a matter after the Plaintiff passes away if the claims survive the Plaintiff's death. Defendants' limited opposition only objects to the continuation of Plaintiff's claim for penalties pursuant to ERISA § 502(c). Defendants do not oppose the substitution of the parties. The Court will grant the motion for substitution of parties pursuant to FRCP 25(a)(1) without making a determination of the status of Plaintiff's claim under § 502(c). Accordingly,

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1 **IT IS HEREBY ORDERED** that Merrilu Kutcher and Bruce E. Moore's Motion for
2 Substitution of Parties (#128) is **granted**.

3 **DATED** this 30th day of June, 2015.

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6 GEORGE FOLEY, JR.
7 United States Magistrate Judge
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